IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND SEVEN

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

WRIT PETITION No.22827 OF 1996

Between:

Rotakonda Musalaiah and another.

..... PETITIONERS

AND

The District Collector,
Nellore District, Nellore, A.P.,
And others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR

WRIT PETITION No.22827 OF 1996

O R D E R

This writ petition is filed with a prayer as follows:

> **"…Hon'ble Court may be pleased to issue an appropriate writ or order or direction under Article 226 of the Constitution of India, particularly one in the nature of Writ of MANDAMUS, to declare the action of the respondents herein in threatening to interfere with the petitioners possession and enjoyment of the land of Ac.1-81 cents in Survey No.359 of Marripadu of Allampadu Revenue Village, Marripadu Mandal, Nellore District, A.P. as illegal after calling for the records and to pass …"**

The petitioner claims to be the owner of an extent of land admeasuring Ac.1-81 cents in Survey No.359 of Marripadu Village of Allampadu Revenue Village, Marripadu Mandal, Nellore District. The complaint of the petitioner is that the respondents are threatening to dispossess him from the abovementioned piece of land. It is categorically alleged by the petitioner that when he wanted to construct a compound wall around the abovementioned property on 23.10.1996, the respondents obstructed for the same. Hence, the present writ petition.

Normally, a writ petition like this, in my view, has to be dismissed on the ground that the writ petition involves questions of title and possession of immovable property, and for the decisions thereof the appropriate Forum is not the one under Article 226 of the Constitution of India. The issues are required

to be decided on the basis of evidence.

However, in spite of the pendency of the writ petition for more than a decade in this Court, the respondents never chose to file any counter-affidavit denying any of the allegations made by the petitioner.

In the circumstances, I deem it appropriate to dispose of the writ petition directing the respondents not to interfere with the possession of the petitioner in respect of the abovementioned property, except in accordance with the procedure established by law. There shall be no order as to costs.

JUSTICE J.CHELAMESWAR

22nd FEBRUARY, 2007
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR

WRIT PETITION No.22827 OF 1996

22ND FEBRUARY, 2007